

REMARKS

The specification has been amended. Specifically, paragraph [0018] has been amended to delete recitation of “Product R is provided by Advanced Viral Research Corporation (Yonkers, New York).” Paragraph [0025] has been amended to include recitation of “at concentrations between 0 to 100%”. Support for this amendment can be found in the originally filed drawings.

Paragraph [0008] has been amended to recite Product R and/or RETICULOSE, as appropriate. Specifically, line 1 of paragraph [0008] has been amended to clarify that Product R and RETICULOSE are both synthesized preparations that contain a mixture of peptide nucleic acids, breakdown products components of bovine serum albumin, and probably, free nucleosides. Support for this amendment can be found in the specification, e.g., at page 9, line 6 et seq. Line 4 of paragraph [0008] has been amended to recite “RETICULOSE” instead of “Product R,” as would be apparent to the skilled artisan. Line 8 of paragraph [0008] has also been amended to recite “RETICULOSE” instead of “Product R.” The cited article by Chen and Hirschman refers only to RETICULOSE. Applicants respectfully submit that these amendments are to correct obvious errors. Amendments to correct obvious errors are not new matter “where one skilled in the art would not only recognize the existence of the error in the specification, but also the appropriate correction. *In re Oda*, 443 F.2d 1200 (CCPA 1971).

Claims 1-4 and 7-9 are pending upon entry of the above amendments. Claims 1, 3, 7 and 9 have been amended to correct grammatical and typographical errors. Specifically, claim 1, in steps e, g, and h, and claim 7, in steps d and e, have been amended to recite “each of said groups” instead of “each said group.” Claim 1 has been further amended to delete “a” and “respectively” in step e. Claim 1, in step f, and claim 7, in step c, have been further amended to recite “each of said” instead of “each said.” Claim 1, in step h, and claim 7, in step e, have been further amended to recite “the amount” instead of “each said amount” and “correlates with a” instead of “correlates a.” Claim 3 has been amended to correct the spelling of “electrophoresis.” Claim 9 has been amended to correct an obvious typographic error of “said”. Claims 1, 3, and 7 have been further amended to correct antecedent basis. Specifically, claim 3 has been amended to refer to the measuring of the amount of said RT-PCR product in step g of claim 1. Claims 1, in step f, and claim 7, in step c, have been amended to delete “the” in front of “mRNA.”

Claims 1 and 7 have been amended in order to clarify the claimed invention.

Support for the claim amendments may be found in the specification. Specifically, examples of support for the amendment to claims 1 and 7 can be found on page 4, lines 15-17 of the instant specification. No new matter has been added by these amendments.

New claim 10 has been added to clarify that which Applicant regards as the invention. Support for new claim 10 can be found in the specification, e.g., at pg. 11, line 14 to 14, line 16 and pg. 19, lines 2-5.

Thus, the new and amended claims are fully supported by the instant specification and no new matter has been introduced.

Objections

The Amendment filed December 12, 2000 was objected to under 35 U.S.C. § 132 as allegedly introducing new matter into the disclosure. Specifically, the Examiner objected to the phrase “Product R is provided by Advance Viral Research Corporation (Yonkers, New York).” In response, Applicants have deleted this phrase. Accordingly, Applicants respectfully request withdrawal of the objection.

The disclosure was objected to as allegedly lacking written support for “at concentrations between 0 to 100%” in the specification. In response, Applicants have amended the specification to include this language, pursuant to the Examiner’s suggestion. Accordingly, Applicants respectfully request withdrawal of the objection.

The use of the trademark “RETICULOSE®” was noted as not being capitalized. The Examiner also recommended deletion of all instances of RETICULOSE because Product R and RETICULOSE are not the same composition. In response, Applicants have amended the specification to capitalize all occurrences of RETICULOSE in the specification. Applicant’s have further amended the specification to recite Product R and/or RETICULOSE, as appropriate. In particular, the specification has been amended to recite that the demonstration of biological activities and the studies by Chen and Hirschman in paragraph [0008] were for RETICULOSE not Product R.

Claim Rejections - 35 U.S.C. § 112

Claims 1-4 and 7-9 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with written description requirement. Specifically, the Examiner contends that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. The specific rejections are

set forth below.

Claims 1 and 7 have been rejected as allegedly not having support within the original disclosure for the mass ranges recited in step "a'") of claims 1 and 7. As this step has been deleted, the rejection has been rendered moot.

Claims 1 and 7 have been further rejected as allegedly not having antecedent basis for "the mRNA" in line 1 of step "f)" or in line 1 of step "c)", respectively, and "the product" in line 1 of step "c'")". With respect to "the product," this claim language has been deleted, rendering the rejection moot. With respect to "the mRNA," Applicants have deleted "the" before mRNA, thus obviating the rejection. Thus, Applicants respectfully submit that there is proper antecedent basis.

Claim 3 has been rejected as allegedly having insufficient basis for "the reduction" in the claim. As this language has been deleted from the claim, the rejection has been rendered moot.

For the above reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 112, first paragraph.

CONCLUSION

Applicant respectfully requests that the amendments and remarks made herein be entered and made of record in the file history of the present application. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

Date: December 23, 2004

Adriane M. Antler 32,605
Adriane M. Antler (Reg. No.)
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

By. *[Signature]* 44,412